

1 PAUL T. FRIEDMAN (CA SBN 98381)
PFriedman@mofo.com
2 CRAIG D. MARTIN (CA SBN 168195)
CMartin@mofo.com
3 PHILIP T. BESIROF (CA SBN 185053)
PBesirof@mofo.com
4 MORRISON & FOERSTER LLP
425 Market Street
5 San Francisco, California 94105-2482
Telephone: 415.268.7000
6 Facsimile: 415.268.7522

7 Attorneys for Defendant
ANDREW M. MILLER
8

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION
12

13 SECURITIES AND EXCHANGE
14 COMMISSION,

15 Plaintiff,

16 v.

17 ANDREW M. MILLER,

18 Defendant.
19
20
21

Case No. 3:15-cv-01461-SC

**STIPULATION AND ~~PROPOSED~~ ORDER
CONTINUING CASE MANAGEMENT
CONFERENCE**

Pursuant to Civil Local Rules 6-2 and 7-12, plaintiff Securities and Exchange Commission (the “Commission”) and defendant Andrew Miller (collectively, the “Parties”) respectfully submit the following Stipulation and [Proposed] Order Continuing the Initial Case Management Conference currently set for September 25, 2015, at 10:00 a.m.

FACTUAL BACKGROUND TO THE PARTIES’ STIPULATION

In support of this stipulation, the undersigned Parties provide the following facts, which are verified in the supporting Declaration of Michael P. Kniffen:

1. On March 31, 2015, the Commission filed the Complaint in this action. (ECF No. 1.)
2. On April 17, 2015, this action was reassigned to the Honorable Samuel Conti. (ECF No. 5.)
3. On April 17, 2015, the Court set an Initial Case Management Conference for June 26, 2015. (ECF No. 6.)
4. On May 29, 2015, the parties filed a Stipulation and [Proposed] Scheduling Order, which requested an early settlement conference. (ECF No. 13.)
5. On June 4, 2015, the Court granted the parties’ request for a settlement conference and rescheduled the Initial Case Management Conference for September 25, 2015. (ECF No. 15.)
6. On June 26, 2015, the Court referred this case to Magistrate Judge Laurel Beeler for the settlement conference.
7. On June 29, 2015, Magistrate Judge Beeler issued an order setting a settlement conference date for October 13, 2015. (ECF No. 16.)
8. On July 6, 2015, pursuant to Magistrate Judge Beeler’s order, the Commission notified the courtroom deputy that it had a conflict on October 13, 2015. Magistrate Judge Beeler’s courtroom deputy informed the Commission that Judge Beeler’s next available dates for a settlement conference are during the week of November 2, 2015, and the parties agreed to file a stipulation requesting November 4, 2015, for the settlement conference. (*See* ECF No. 17.)
9. On July 15, 2015, Magistrate Judge Beeler approved the parties’ stipulation and issued an order setting a settlement conference date for November 4, 2015. (ECF No. 18.)

1 10. The Parties believe that the interests of judicial economy and efficiency will be
2 well served by continuing the Initial Case Management Conference until after a settlement
3 conference is held with Magistrate Judge Beeler.

4 **STIPULATION**

5 In light of these facts, the undersigned parties jointly request the Court to enter the
6 following stipulation as an Order of the Court:

7 The Initial Case Management Conference currently set for September 25, 2015, at
8 10:00 a.m., is hereby vacated, and the Initial Case Management Conference shall be set on
9 December 4, 2015, or to such date and time thereafter as the Court may order.

1 IT IS SO STIPULATED.

2 Dated: September 15, 2015

MORRISON & FOERSTER LLP

3 By: /s/ Craig D. Martin
4 Craig D. Martin

5 Paul T. Friedman
6 Craig D. Martin
7 Philip T. Besirof
8 Michael P. Kniffen
9 425 Market Street
10 San Francisco, California 94105-2482
11 Telephone: 415.268.7000
12 Facsimile: 415.268.7522
13 Email: PFriedman@mofo.com
14 Email: CMartin@mofo.com
15 Email: PBesirof@mofo.com
16 Email: MKniffen@mofo.com

Attorneys for Defendant Andrew Miller

13 Dated: September 15, 2015

SECURITIES AND EXCHANGE COMMISSION

14 By: /s/ Susan F. LaMarca
15 Susan F. LaMarca

16 Susan F. LaMarca
17 David S. Johnson
18 44 Montgomery Street, Suite 2800
19 San Francisco, CA 94104
20 Telephone: 415.705.2500
21 Facsimile: 415.705.2501
22 lamarcas@sec.gov
23 johnsonds@sec.gov

*Attorneys for Plaintiff Securities and
Exchange Commission*

ECF ATTESTATION

I, Michael Kniffen, am the ECF User whose ID and Password are being used to file this Stipulation. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that Craig Martin and Susan LaMarca have concurred in this filing.

Dated: September 15, 2015

MORRISON & FOERSTER LLP

By: /s/ Michael P. Kniffen
Michael P. Kniffen

Attorneys for Defendant Andrew Miller

DECLARATION OF MICHAEL P. KNIFFEN

I, MICHAEL P. KNIFFEN, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of California and am admitted to practice before this Court. I am a member of the law firm of Morrison & Foerster LLP, and counsel of record for defendant Andrew Miller. I submit this Declaration in support of the parties' Stipulation and [Proposed] Order (hereafter, the "Stipulation"). If called as a witness, I would testify to the facts listed below.

2. Pursuant to Civil Local Rule 6-2, I attest that the facts set forth in the Stipulation, paragraphs 1 through 10 inclusive, are all true and accurate.

3. This is the parties' second request for a modification of time. The parties previously filed a stipulation to request a settlement conference and vacate the Initial Case Management Conference on May 29, 2015 (ECF No. 13), which was approved by the Court on June 4, 2015 (ECF No. 15). Other than the case management conference currently set for September 25, 2015, the proposed schedule will not impact any other deadlines or dates set by the Court.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this Declaration was executed in San Francisco, California, on this 15th day of September, 2015.

MORRISON & FOERSTER LLP

By: /s/ Michael P. Kniffen
Michael P. Kniffen

~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 09/15/2015

